IN THE HIGH COURT OF JUDICATURE AT BOMBAY

APPELLATE SIDE

CIVIL REVISION APPLN. NO. 2166 OF 2002

Yash Construction & Ors. .. Applicants

versus

Deepak S. Tingare .. Respondent

...

Mr.G.S. Godbole for the petitioners.

Ms.Smita gawai for the respondent.

CORAM : D.G. KARNIK, J

DATED : 30th August 2004

P.C:-

1. Heard the learned counsel for the petitioner.

2. By this Revision, the applicants challenge the order passed by the Civil Judge holding that he has the jurisdiction to entertain and try the suit. The suit was filed under section 6 of the Specific Relief Act claiming back the possession alleging that the respondent has been illegally dispossessed. While

deciding the suit under section 6 of the Specific Relief Act, respondent is required only to establish the he was in possession of the suit property and was unlawfully dispossessed and that the suit has been filed within a period of six months from the date of possession. It was not necessary for him to prove in what capacity he was in possession. Therefore, the mere assertion made by the respondent that he was a tenant and was in possession of the property in that capacity would not take the suit out of the suit of jurisdiction of Civil Court. The finding recorded by the trial Court is, therefore, proper.

Hence, Revision Application is rejected.

D.G. KARNIK, J